
U.S. Department of Justice

*United States Attorney
Southern District of New York*

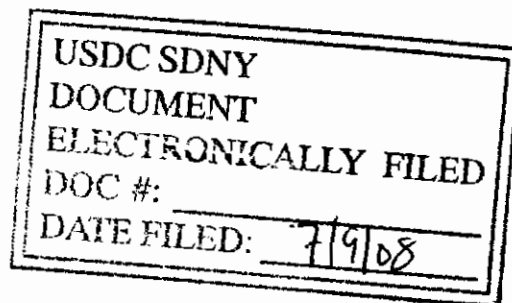
*86 Chambers Street, 3rd Floor
New York, New York 10007*

July 8, 2008

BY HAND

Honorable Denise L. Cote
United States District Judge
United States District Court
500 Pearl Street, Room 1040
New York, New York 10007

MEMO ENDORSED



Re: Langert v. United States of America, et al.
08 Civ. 4405 (DLC) (DF)

Dear Judge Cote:

I am the Special Assistant United States Attorney with principal responsibility for defending the U.S. Government in the above-referenced negligence action. On June 25, 2008, my office received a copy of the plaintiff's Amended Complaint in this action. I write to the Court to respectfully request a 30-day extension of the 10-day period provided under Federal Rule of Civil Procedure 15(a) to answer or otherwise respond to the Amended Complaint, i.e. until August 11, 2008. This is the Government's first request for an extension.

*Granted
Denise Cote
July 9, 2008*

Plaintiff initially filed an action in the Supreme Court of the State of New York, Dutchess County on November 9, 2007. On May 9, 2008, this action was removed to federal court. On May 14, 2008, the Government moved to substitute the United States of America as defendant in place of federal defendants Amy Tocco, M.D., David Walker, M.D., Hudson River Health Care, Inc. and to dismiss the complaint as against the United States for lack of subject matter jurisdiction. The Government and plaintiff subsequently signed a Stipulation and Order of Substitution of the United States as Defendant for Amy Tocco, M.D., David Walker, M.D., Hudson River Health Care, Inc. and Dismissal of the Action as Against the United States (the "Stipulation"), which was so ordered by the Court on June 3, 2008.

I am requesting an extension for two reasons. First, the Amended Complaint is problematic in a number of ways, including the fact that it names Hudson River HealthCare, Inc., Amy Tocco, M.D., and David Walker, M.D. as defendants despite the fact that the Stipulation already dismissed the claims against these individual defendants with prejudice. We have raised this issue with counsel for plaintiff by letter dated June 27, 2008, but have not yet heard from him. Second, the current date to respond to the Amended Complaint falls on July 11, 2008, and I will be out of the office on previously scheduled annual leave until July 15, 2008. A 30-day extension until August 11, 2008, will provide the Government with sufficient time to attempt to

resolve the problems in the Amended Complaint with plaintiff's counsel directly without unnecessarily burdening the Court.

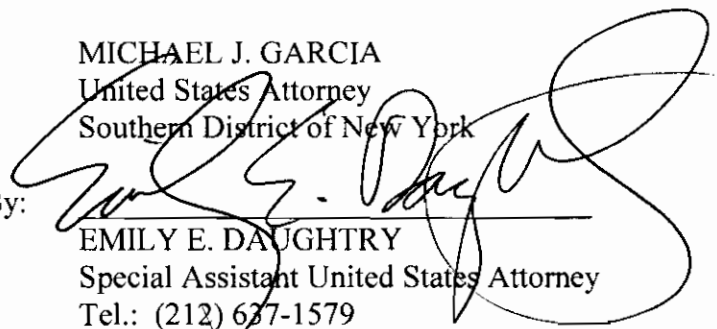
In our letter dated June 27, 2008, we also requested plaintiff's consent to a 30-day extension to respond to the Amended Complaint. However, plaintiff's counsel has not yet responded.

Thank you for your consideration.

Respectfully,

MICHAEL J. GARCIA
United States Attorney
Southern District of New York

By:



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